

REMARKS

Claims 1-21 remain in the application in their original form. New independent claim 22 has been added. Once again, the references cited by the Examiner do "generally address" fleet management systems and methodologies. However, the Examiner fails to compare specific elements in the Applicants' claims with the specific elements disclosed in the cited references. In re Thrift requires a more specific analysis before Applicants' claims can be rejected.

Moreover, there is no affirmative suggestion or motivation in the art to combine the References as asserted by the Examiner. The references cited by the Examiner actually teach away from each other and the Applicants' claims.

I. THE CITED REFERENCES FAIL TO DISCLOSE ALL OF THE APPLICANTS' CLAIM ELEMENTS

A. Independent Claim 1 and Dependent Claims 2-4, and 14-15

Claims 1-4 and 14-15 ("Claims Group A") were rejected by the Examiner under 35 U.S.C. 103(a) as being unpatentable over Prabhakaran, U.S. Patent Number 5,922,040 ("Prabhakaran") in view of a paper titled "Analysis and Modeling of a Fleet Management System of an Airport Shuttle Service" by Becker et al ("Becker") in view of Murakami, U.S. Patent No. 6,453,298 ("Murakami") and further in view of Clark, U.S. Patent No. 6,411,922 ("Clark"). Moreover, at times the discussion mentions Linde, but it is not one of the listed references used to reject claims 1-4 or 14-15. If the Examiner intends to rely on Linde as a fifth reference to reject any of the indicated claims, Applicants respectfully respect that the use of the reference be made explicitly along with the basis for combining the five references together.

1. Claim 1

- a. a simulated fleet configuration unit configured to allow a user to add one or more assets to said simulated fleet, each asset having a parameter associated therewith**

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The Office Action concedes that Prabhakaran does not disclose "simulation of fleet management assets [Office Action Page 10]." Thus, Prabhakaran cannot disclose a configuration unit for a simulated fleet, the adding of assets to a simulated fleet, or parameters associated with assets in a simulated fleet.

As a result, the Examiner next relies on Becker. However, Becker is inapplicable. First, Becker expressly teaches away from the claimed invention. Becker is limited to an exclusively simulated approach with respect to "traffic planning". However, to the extent that a fleet of vehicles exists, the teachings of Becker relate to improving their utilization. (Page 4) Thus, it is not a simulated fleet as required by the claims. Moreover, Becker is not able to "add one or more assets to said simulated fleet", as required by the claims. Instead, Becker teaches the improved management of existing assets in the context of traffic planning. Thus, the simulation the Examiner relies on is inapplicable to the claimed invention. "When considering a vehicle fleet consisting of heavy trucks running primarily on highways and over long distances, the advantages of a fleet management system such as that described above becomes evident." (Page 5) As stated at page 9, "For simplification, in the following solely one single vehicle is considered, whose processes represent the processes of each vehicle of the entire fleet." This is in direct contrast to the teachings of the claimed invention, which is directed to the modeling of a "fantasy" fleet with added simulated assets. Moreover, Becker fails to disclose any type of "configuration unit" in section 4.2, page 7, or pages 9-11. Becker is also silent with respect to whether or not "each asset" is associated with a particular type of parameter.

Thus, the Examiner next relies on Murakami, suggesting that it teaches simulation of redeployment of fleet assets to meet demands, allows for the addition of elements, includes a surplus/shortage control unit and a vehicle redistribution unit and a demand determining unit, which is executed using an application program on a computer-server which assets are available for purchase or lease. However, Murakami also expressly teaches away from the claimed invention. As with Becker, Murakami is limited to an actual fleet of vehicles. (Abstract, Col. 1, lines 23-28). Thus, it is not a simulated fleet as required by the claims. Moreover, since it is an actual fleet of vehicles, Murakami is not able to "add one or more assets to said simulated fleet". Instead, Murakami teaches the "reallocation" or "redistribution" of existing assets, which by their very nature in the context of the patent

cannot be simulated, since such a simulation would undermine the very teachings of the patent. As the Examiner himself recognized, the purpose of Murakami teaches "fleet assets distribution to minimize wasted assets." (See e.g., Office Action, page 10). Thus, if the existing assets are being wasted, there is no need to add simulated assets as taught by the claim. As the Examiner admits, Murakami deals with the constraints of actual operation and its teachings are based on a maximization of existing resources.

Clark is relied only for the so-called teaching of costs associated with resources. Thus, it does not make up for the lack of teachings in the other references. Clark is directed simply to the concept of problem modeling in resource optimization that does not require the use of manual hard-code functions.

In short, the art relied on by the Examiner only serves to emphasize the novelty and non-obviousness of the present invention, which by not being limited by actual fleet units, permits the simulation of a fleet to determine not only the an optimum use of resources for a pre-existing fleet, but the total number of resources in the form of simulated assets that need to be added to achieve the optimal makeup based on the recited parameter.

As stated in the summary of the invention: "In a preferred embodiment, some of the assets contained in the simulated fleet correspond to assets already contained in the user's existing fleet. The remainder of the assets in the simulated fleet correspond to new or used assets proposed for acquisition by the user." (Emphasis added, P. 7, lines 3-7) Thus, the prior art does not teach or suggest the recited elements of claim 1.

- b. **a reporting and analysis module configured to generate a report having a composite output that corresponds to said parameter and is characteristic of all said assets in said simulated fleet**

Prabhakaran fails to disclose a "composite output" in the abstract of Prabhakaran, or in Column 2, Line 25-Column 3, Line 10. Furthermore, there is no evidence in the cited portions of Prabhakaran that the output "corresponds" to a parameter that is a "characteristic of all said assets." Similar to the situation in In re Thrift, Prabhakaran has been applied in an extremely general way to reject the Applicants' claims without looking to the specific limitations and elements in the claim. Prabhakaran is the sole reference cited by the

Examiner with respect to the above claim elements. However, Becker, Murakami and Clark also fail to disclose any of the above underlined portions of the claim segment. Thus, once again the prior art does not teach or suggest the recited elements of claim 1.

c. a communications interface to facilitate electronic remote access of said system by the user

Prabhakaran fails to disclose any type of "remote access" in the abstract of Prabhakaran, or in Column 2, Line 25- Column 3, Line 10. Becker, Murakami and Clark do not make up this deficiency.

d. Admitted lack of motivation to combine

While the Examiner attempts to combine the four separate references together, the argument fails. It does not focus on the claim elements let alone explain how the references can be combined to recite the elements in a cogent manner. The issue of "suboptimal configurations" or the desire to "minimize wasted assets" focused on by the Examiner merely serve to show the limitations of the prior art. In contrast to the prior art, which focuses on existing fleet make ups and at best reallocates existing resources, claim 1 includes clearly patentable subject matter and defines over the prior art of record for all of the reasons discussed above.

2. Claim 2

While claim 2 depends from claim 1, it is separately patentable. The prior art lacks at least each of the indicated elements of claim 2.

a. a fleet builder module including a step-by-step asset entry system

The Examiner incorrectly asserts that element 1501 in Figures 6 and 7 of Prabhakaran discloses the above listed claim elements. The specification of Prabhakaran provides that element 1501 is a "main process manager" (Column 13, Line 12) that can be used to create a "vehicles file" (Column 14, Line 13). In contrast to a "step-by-step" process for adding assets, Prabhakaran uses a single "vehicles file," which requires an update to the entire

“vehicles file.” No “step-by-step” functionality is disclosed in Prabhakaran. The Examiner mentions Murakami, However, Murakami teaches away from the claimed invention. There is no step-by-step asset entry system since all of the assets already exist. The surplus/shortage control unit 104 and the vehicle redistribution determining unit 105 relied on by the Examiner is limited to the existing assets. “On the basis of the surplus or shortages of vehicles 4 at each port P, a vehicle redistribution determining unit 105 outputs instructions for moving excess vehicles 4 from one port P to another, i.e., for redistributing vehicles 4.” (Emphasis added. Col. 6, lines 51-54). Clark is limited once again to the issue of teaching cost. Thus, the prior art does not teach this element.

b. a fleet search module including a first add-to-fleet feature

Contrary to the assertion of the Examiner, element 1501 in Figures 6 and 7 of Prabhakaran fails to disclose a search module that includes the ability to use the search results to add to the fleet. As discussed above, the “main process manager” adds vehicles by adding the “vehicles file.” Prabhakaran is silent as to the use of a search module that can export the search results into the vehicles file. Becker and Murakami are limited to existing fleets so there is no “first add-to-fleet” feature. Nor does Clark aid in teaching the claim element.

c. a simulated fleet module including an add-asset feature

Contrary to the assertion of the Examiner, element 1501 in Figures 6 and 7 of Prabhakaran fails to disclose a search module that includes the ability to use the search results to add to the fleet. In fact, the Office Action admits that Prabhakaran fails to even disclose a “simulated fleet.” Prabhakaran, Becker, Murakami and Clark all fail to disclose a mechanism for adding “features” or “parameters” that describe the assets in the virtual fleet.

d. market search module including a second add-to-fleet feature

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Contrary to the assertion of the Examiner, element 1501 in Figures 6 and 7 of Prabhakaran fails to disclose a search module that includes the ability to perform market searches. In fact, the Office Action admits that Prabhakaran fails to even disclose a “simulated fleet.” As discussed above, Prabhakaran, Becker, Murakami and Clark all fail to disclose an “add-to-fleet feature.” Thus, neither disclosure mentions a “second” feature. Claim 2 is in condition for allowance.

3. Claim 3

wherein said simulated fleet configuration unit is further configured to store data associated with said simulated fleet in a first database, said first database further including data associated with assets in an existing fleet, said simulated fleet configuration unit being further configured to allow the user to add assets from said existing fleet to said simulated fleet

None of the prior art of record discloses the functionality of storing both simulated fleet data and existing physical fleet data, much less the storage of such data in the same database. Claim 3 and the claims that depend on claim 3, are in condition for allowance.

4. Claim 4

wherein said simulated fleet configuration unit is configured to execute on an application server

As discussed above, Prabhakaran fails to disclose a “simulated fleet” and this cannot be said to disclose a “simulated fleet configuration unit.” Prabhakaran similarly fails to disclose an “application server” a phrase that is entirely absent from the Prabhakaran disclosure. The portion of Prabhakaran cited by the Examiner beginning at Column 33, line 23, discloses a variety of programming languages, potential integration with CAD software, and other software characteristics that do not inherently or suggestively relate to application servers. Similarly, the Becker disclosure is not detailed enough with respect to information technology architecture to disclose an “application server” being used to execute a “simulated fleet configuration unit.” As discussed above, the Examiner’s reliance on Becker is misplaced. Far from disclosing the architecture of a “simulated fleet configuration unit.”, Becker does not disclose a simulated fleet.

The same argument is applicable to the other prior art of record. In Murakami, for example, the pre-existing nature of the assets is again emphasized in the very lines that the Examiner relies on, discussing the movement of vehicles between terminals 2 of a Port P. "Predicted starting trips represent daily demands based on past demand results." (Column 5, lines 41-43). The "rental" aspect the Examiner relies on out of context is merely with respect to permitting use by a contractor of a pre-existing vehicle. (Column 5, lines 3-29). The entire discussion is with respect to allowing selective rental and use of a pre-existing vehicle. "Following a decision in favor of the vehicle use, the host 1 allows the terminal 2 to rent a vehicle and to designate a specific vehicle to be rented. The permission to rent a vehicle and the designation of the vehicle to be rented permit the user to actually ride the vehicle. The rent permission and the vehicle designation give rise to what is called a 'starting trip.'" (Column 5, lines 13-19). Thus, once again there is no simulated fleet configuration unit let alone an application server for the configuration unit. In short, claim 4 is patentable.

5. **Claim 14**

wherein said reporting and analyzing module is configured to executed on an application server

As discussed above, neither Prabhakaran nor Becker disclose an "application server" much less a "reporting and analyzing module" executed on an "application server." Contrary to the assertions of the Examiner, Column 40, Lines 3-13 of Prabhakaran teaches away from the limitations of the claim, indicating that Prabhakaran is limited to any particular technical configuration, infrastructure, or programming language. The cited portion of Prabhakaran does not disclose any specific modular structure, the generating of reports or analysis, or an application server used to execute any type of module. Becker, Murakami, and Clark are similarly non-specific and teach away from the limitations of the claimed invention. Thus, claim 14 is in condition for allowance.

6. **Claim 15**

wherein said communications interface comprises an Hyper-Text Transfer Protocol (HTTP) compliant web server

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Contrary to the assertions of the Examiner, Column 4 of Prabhakaran fails to disclose the use of a "web server" much less a "HTTP compliant web server." Claim 15 is in condition for allowance.

B. Dependent Claims 5-9, 13, 17, 18, and 20 and Independent Claims 16 and 19

Claims 5-9, 13, and 16-20 ("Claims Group B") were rejected by the Examiner under 35 U.S.C. 103(a) as being unpatentable over Prabhakaran in view of Becker in view of Linde, AG/Fleet Management (hereinafter called "Linde") in view of Murakami and further in view of Clark. Thus, the Examiner is using five separate references to reject the claims. Also, for some reason, the Examiner rejected dependent claims in the office action before addressing the underlying independent claims at least with respect to claims 5-9 and 13. Thus, the arguments with respect to claim 1 above, are equally applicable to those claims dependent on claim 1.

1. Linde is not prior art and MAY NOT be used by the examiner

In response to the last office action, Applicants pointed out that the Linde fails to qualify as prior art since the excerpts of Linde provided by the Examiner do not establish a publication date prior to the filing date of the present application. The date identified in the publication is May 18, 2002. The Examiner has failed to provide proof to the contrary. Therefore, for this reason alone the indicated claims are patentable.

However, even if Linde is applicable as prior art, the Applicants traverse the rejections on the basis that the cited references fail to disclose all of the specific elements in the Applicants' claims, as is required by In re Thrift.

2. Claim 5

including a second database that includes data associated with assets available for one of a purchase, rental, and lease transaction,

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wherein said simulated fleet configuration unit is further configured to allow the user to add one or more assets from said second database to said simulated fleet

As admitted in the Office Action, Becker, Prabhakaran, Murakami, and Clark are all not detailed enough with respect to databases to disclose a multiple database configuration where one database stores assets that can be procured while a different database stores the simulated fleet. Contrary to the Examiner's assertion, Linde also fails to disclose a dual database configuration on page 7 of Linde. The word "database" and its equivalents, fails to appear on page 7 of Linde. Thus, none of the references cited by the Examiner can be said to disclose the "first database" and "second database" configuration of the Applicants' claims.

As discussed above, Prabhakaran, Becker, and Murakami, and Clark all fail to disclose in any detail, the process by which currently non-available assets are added to a simulated fleet. On the contrary, they all deal with utilization of existing fleet assets. Thus, those references cannot be said to identify the types of transactions (purchase, rental, and lease transactions) used to add or otherwise acquire assets. Similarly, page 7 of Linde may disclose a list of assets that can be acquired, but page 7 of Linde does not distinguish between purchase, rental, and lease transactions. Claim 5, and the claims that depend on claim 5, are independently patentable and in condition for allowance.

3. **Claim 6**

including a third database that includes data associated with a plurality of pre-configured assets, each pre-configured asset comprising a parameter having a composite value derived from corresponding parameter values associated with a plurality of specific assets of a similar type, said simulated fleet configuration unit being further configured to allow the user to add one or more assets based on type from said third database to said simulated fleet

None of the references cited by the Examiner disclose a three-database information technology architecture for compartmentalizing existing fleet, simulated fleet, and potential procurement data. None of the cited references distinguish between assets and pre-configured assets. None of the cited references disclose a "composite value" much less a

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“composite value derived from corresponding parameter values associated with a plurality of specific assets of a specific type.” Contrary to the assertions of the Examiner, Page 7 of Linde merely discloses the ability to view asset information that is organized into one or more categories. Thus, neither Page 7 of Linde nor Pages 9-11 of Becker disclose the limitations of claim 6. Thus, Claim 6, and claims that depend on claim 6, are independently patentable and in condition for allowance.

4. Claim 7

wherein said simulated fleet includes a first asset from said existing fleet, and a second asset selected from one said second database corresponding to assets for purchase, rental, and lease, said third database corresponding to pre-configured assets, and user-defined assets

As discussed above, purchase, rental and lease transactions are not disclosed in the cited references. Similarly, a three-database configuration is absent from the cited disclosures. Thus, claim 7 is independently patentable and in condition for allowance.

5. Claim 13

wherein said report associated with said simulated fleet is a first report, said reporting and analyzing module being further configured to generate a second report having another composite output that is associated with the existing fleet, to thereby allow the user to compare said first and second reports to evaluate the existing fleet and the simulated fleet

As discussed above, none of the cited references discloses a “composite output” and thus, none of the cited references can be said to disclose reports involving a “composite output” or the comparing of reports that utilize a “composite output.” Contrary to the assertion by the Examiner, Becker (pages 4-7, and 9-11) fails to disclose reports relating to existing fleets, and thus cannot be said to disclose the functionality of comparing a first report of a simulated fleet with a second report for an existing fleet. The arguments above are equally applicable here as to the remaining references. Thus, claim 13 is independently patentable.

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6. Claim 16

- a. a market database including data associated with a plurality of specific pieces of industrial equipment that are available for one of purchase, rental, and lease

As discussed above, the prior art of record relates to simulation of an existing fleet. Thus, at most it might be argued that the references disclose a “fleet database including data associated with an existing fleet”. However, there is absolutely no teaching or suggestion of a market database let alone including data associated with a plurality of specific pieces of industrial equipment that are available for one of purchase, rental and lease as required by the claim. Contrary to the assertions of the Examiner, Linde fails to disclose the different types of transaction on pages 1, 7, or anywhere else within Linde.

- b. a simulated fleet configuration unit configured to allow a user to add a first piece of industrial equipment to said simulated fleet from said existing fleet based on data in said fleet database, said simulated fleet configuration unit being further configured to allow said user to add a second piece of industrial equipment based on data from one of said market database, and user-defined industrial equipment, each piece of industrial equipment having a parameter associated herewith

Contrary to the assertions of the Examiner, Prabhakaran (Column 4, Line 10) cannot disclose a simulated fleet configuration unit, because as admitted elsewhere in the Office Action, Prabhakaran fails to disclose a simulate fleet. Contrary to the assertions of the Examiner, none of the cited references discloses the specific ability to “add a second piece of industrial equipment based on data” available on a “market database.” Contrary to the assertions of the Examiner, pages 1-7 of Linde fail to teach that “each” asset has the associated parameter. Claim 16, and the claims that depend on Claim 16, are in condition for allowance.

- c. a reporting and analysis module configured to generate a report having a composite output corresponding to said

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parameter that is characteristics of all pieces of industrial equipment in said simulated fleet

As discussed above, the elements of “composite output” that corresponds to a parameter that is a characteristic of “all” pieces of industrial equipment is not disclosed in the cited art.

d. a communications interface configured to facilitate electronic remote access by said user

As discussed above, the cited art fails to disclose “remote access” much less “electronic remote access.”

In view of all of the foregoing reasons, independent claim 16, and all claims dependent upon Claim 16, are in condition for allowance.

7. Claim 17

including a pre-configured asset database that includes data associated with a plurality of modeled pieces of industrial equipment based on type

As discussed above, the cited art fails to distinguish between pre-configured assets and assets generally. Similarly, databases are not expressly disclosed in any of the cited disclosures. Thus, Claim 17 is independently patentable and is in condition for allowance.

8. Claim 18

wherein said report is a first report, said reporting and analysis module being further configured to generate a second report having another composite output based on industrial equipment in said existing fleet to thereby allow the user to compare said first and second reports to evaluate said existing and simulated fleets

As discussed above, none of the cited references discloses the element of “composite output.” Thus, as discussed above, the cited references fail to disclose the functionality of comparing reports to compare simulated and existing fleets when none of the cited references

discloses an awareness of both existing and simulated fleets. Thus, Claim 18 is independently patentable and in condition for allowance.

9. Claim 19

- a. providing a market database including data associated with a plurality of specific pieces of industrial equipment that are available for one of purchase, rental, and lease

As discussed above, none of the references have any teaching or suggestion of a "marketing database", at best having reference to a "fleet database" related to currently available assets for redistribution or reallocation. Moreover, none of the cited references discloses the specific transactions of "purchase, rental, and lease."

- b. selecting a first piece of industrial equipment for inclusion in said simulated fleet from the existing fleet based on data in the fleet database, and further selecting a second piece of equipment based on data from one of the market database, the pre-configured asset database and user defined pieces of industrial equipment, each piece of industrial equipment having a parameter of interest associated therewith

The discussion with respect to the distinction between a "fleet database" and a "marketing database", and their application to pieces of equipment as required by the Claim and as contrasted by the prior art is equally applicable here. Moreover, contrary to the assertions of the Examiner, pages 1-7 of Linde fails to disclose a "parameter of interest" much less a "parameter of interest" associated with individual pieces of industrial equipment.

- c. generating a report having a composite output value as a function of respective parameter values associated with the first and second pieces of equipment

Contrary to the assertions of the Examiner and consistent with the discussion above, page 11 of Becker fails to disclose a "composite output," much less a "composite output value." The utilization of parameter values associated with different pieces of equipment being used to generate a composite output.

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d. electronically transmitting the report to the user at a remote location

As discussed above, none of the cited references discloses any awareness of location with respect to users, and thus cannot be said to disclose a user at a remote location.

In view of all of the foregoing reasons, independent Claim 19 and its dependent claims are in condition for allowance.

10. Claim 20

generating a second report having another composite output value based on respective parameter values associated with pieces of industrial equipment in the existing fleet to thereby allow the user to compare the first and second reports to evaluate the existing and simulated fleets

As discussed above, none of the cited references discloses a "second report" or the ability to calculate a first "composite output value" much less "another" composite output value. None of the cited references discloses both actual and simulated fleets, and this none of the cited disclosures can disclose the functionality of comparing a simulated fleet with an actual fleet. Claim 20 and claim 21, which depends on claim 20, are independently in condition for allowance.

C. Dependent Claims 10-12, and 21

Claims 10-12 and 21 ("Claims Group C") were rejected by the Examiner under 35 U.S.C. 103(a) as being unpatentable over Prabhakaran in view of Becker in view of Linde in view of GE-Fleet in view of Murakami and further in view of Clark. Now the Examiner utilizes six separate references to reject the claims. Moreover, the arguments with respect to claim 1 above, and claim 20, above, are equally applicable to those claims dependent on the intervening claims.

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1. **Linde is not prior art and MAY NOT be used by the examiner**

In response to the last office action, Applicants pointed out that the Linde fails to qualify as prior art since the excerpts of Linde provided by the Examiner do not establish a publication date prior to the filing date of the present application. The date identified in the publication is May 18, 2002. The Examiner has failed to provide proof to the contrary. Therefore, for this reason alone the indicated claims are patentable.

However, even if Linde is applicable as prior art, the Applicants traverse the rejections on the basis that the cited references fail to disclose all of the specific elements in the Applicants' claims, as is required by In re Thrift.

2. **GE-Fleet is not prior art and MAY NOT be used by the examiner**

In response to the last office action, Applicants pointed out that the GE-Fleet fails to qualify as prior art since the excerpts of Linde provided by the Examiner do not establish a publication date prior to the filing date of the present application. The date identified in the publication is May 18, 2002. The fact that the copyright for the GE website is disclosed as "1997-2002" does not mean that any particular subject matter on the website pre-dates the Applicants' priority date. It would be very surprising if a company like GE didn't update its web site materials on a frequent basis. The Examiner has failed to provide proof to the contrary. Therefore, for this reason alone the indicated claims are patentable.

However, even if GE-Fleet were applicable as prior art, the Applicants traverse the rejections on the basis that the cited references fail to disclose all of the specific elements in the Applicants' claims, as is required by In re Thrift.

3. **Claim 10**

wherein said parameter includes at least one of a total maintenance cost, an hourly maintenance cost, a total lease cost, a total operating cost, a total hourly operating cost, and a utilization rating

On page 13 of the Office Action, the Examiner cites page 3 of GE to reject the above underlined claim elements. However, page 3 even fails to disclose the word "cost" much less the numerous specific costs such as total maintenance cost, hourly maintenance cost, total least cost, total and operation cost listed in the claim. Moreover, page 3 of GE makes no reference to the words "utilization" and "rating" much less a "utilization rating." The other reasons why the claims cannot be combined as discussed above are also applicable. Thus, Claim 10 is independently in condition for allowance.

4. Claim 11

wherein said parameter is one of said hourly maintenance cost, said total hourly cost, and said utilization, wherein said reporting and analyzing module is further configured to determine said composite output according to an arithmetic sum function

As discussed above, the Examiner's citation of GE page 3 to disclose the above claimed elements was in error. Page 3 of GE fails to even "generally" address the Applicants' claim elements of "hourly maintenance cost, said totally hour cost, and said utilization." As discussed above, none of the cited references disclose a "composite output" much less an "arithmetic sum function." The Office Action fails to even mention the "arithmetic sum function" much less provide a prior art reference, even though it is an element in Applicants' claim. Thus, Claim 11 is independently in condition for allowance.

5. Claim 12

wherein said parameter includes at least one of said hourly maintenance cost, said total hourly cost, and said utilization, wherein said reporting and analyzing module is further configured to determine said composite output according to an arithmetic average function

As discussed above, the cited references fail to disclose an hourly maintenance cost, a total hourly cost, or a utilization. As also discussed above, none of the cited references disclose the "composite output" element. Furthermore, the Office Action fails to even

mention the "arithmetic average function." Thus, Claim 12 is independently in condition for allowance.

II. THE CITED REFERENCES TEACH AWAY FROM THE APPLICANTS' CLAIMS

Contrary to the assertions of the Examiner, there was no suggestion or motivation in the art that supports combination of the cited references as asserted by the Examiner. The cited references focus on different types of problems utilizing different philosophies and techniques. The vast differences in the approaches teach away from the Applicants' claims, and the other references.

Prabhakaran focuses on information gathering relating to existing fleets, not simulated or virtual fleets. The Office Action admits that Prabhakaran fails to disclose a simulated fleet. In contrast, the Applicants' claims relate to a simulated fleet. Prabhakaran is focused almost exclusively on the motion and location of the fleet of assets. Figure 2 of Prabhakaran discloses three databases dedicated to storing location data. In contrast, the Applicants' claims relate primarily to parameters involving cost and cost effectiveness. Prabhakaran is a "technique for computer aided dispatching of a fleet of vehicles by way of a map" (Column 1, Lines 22-23). The Applicants' claims relate to a system and method of enhancing the utilization rate of the assets, maximizing benefits while minimizing costs. Prabhakaran exhibits no cognizance of the procurement or disposal of assets. The Applicants' claims allow fleet managers "to effectively and efficiently determine the timing, selection, and acquisition of replacement equipment, and the disposal of equipment being retired from the fleet or coming to an end of the lease term (Page 2, Lines 14-18)." Although both Prabhakaran and the Applicants' claims relate "generally" to assets, the Applicants' inventory management of a fleet of assets over time from a business perspective is materially different than a dispatcher routing vehicles on a particular day during a particular period of time.

Murakami is also limited to existing fleets, not simulated or "fantasy" fleets. Murakami teaches the "reallocation" or "redistribution" of existing assets, which by their very nature in the context of the patent cannot be simulated, since such a simulation would undermine the very teachings of the patent. Murakami deals with the constraints of actual operation and its teachings are based on a maximization of existing resources.

Becker takes an exclusively simulated approach. Becker does not directly relate to any assets in the real world, merely recognizing their existence. The Applicants' claims relate to the use of simulated fleets based on a combination of simulated assets and pre-existing assets to develop an optimum simulated fleet based on a desired characteristic. Becker focuses on the problem of "traffic planning" (Becker, page 1). In fact, Becker focuses on the extremely specific challenges of "an airport shuttle service" (Becker, page 1). The Applicants' claims manage simulated assets over time to create a potentially available "fantasy" fleet that minimizes costs and maximizes benefits. Becker discloses no cognizance of costs, the lifespan of assets, maintenance activities, the procurement process, the sell-off of assets, or any other aspect of asset outside of the "traffic planning" aspects. Becker is a different solution to a different problem, and thus is not an appropriate reference from a section 103 perspective.

In contrast to the other references, Linde merely focuses on specific products and types of products. In contrast to Becker and Prabhakaran, Linde ignores issues relating to traffic flow. In contrast to the Applicants' claims, Linde does not focus on maximizing the utilization of the assets themselves. Instead, Linde focuses its attention on the business activities that use the assets, not the assets themselves as assets. Linde is different solution to a different problem. There is no suggestion or motivation in the art to combine Linde with either Becker or Prabhakaran or with Murakami. There is no suggestion or motivation in the art to utilize Linde in order to achieve the benefits included in the Applicants' claims. There is no evidence that Linde has any cognizance of the lifespan of assets, the procurement process, the sell-off of assets, or any other perspective that exists over a period of time.

The other cited disclosures also teach away from GE. GE appears to be a sales mechanism for products and services, including diverse offerings such as satellite technology and accident management. The GE disclosure is limited to such a high-level and undetailed listing of benefits and goals that a motivation to combine GE cannot be said to be found in the art.

Clark is also irrelevant and teaches away from the claimed invention. Its key use by the Examiner is with respect to costs associated with resources. Its relevance and applicability to the other references is never established by the Examiner. Moreover, the

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reference itself is directed to development of optimization software suites that do not require manual hard-code functions for the transformation of data.

III. CLAIM 22

New independent claim 22 has been added to the application. It includes the limitations of claim 1 as well as additional limitations that also define over the prior art of record. Among other things it recites the addition of one or more simulated assets to a simulated fleet that is also made of pre-existing fleet assets in the manner recited. Claim 22 is patentable over the prior art of record.

CONCLUSION

Claims 1-22 are in condition for allowance because in accordance with In re Thrift, it is not enough for cited prior art references to "generally address" the claim elements of the Applicant. If even one claim element is not disclosed in the cited references, the claim cannot be rejected. If the claims are not believed to be in condition for allowance, the Applicants' respectfully request an interview with the Examiner to discuss the Office Action and the cited references. It is believed that any additional fees due with respect to this paper have already been identified in any transmittal accompanying this paper. However, if any additional fees are required in connection with the filing of this paper that are not identified in any accompanying transmittal, permission is given to charge account number 18-0013 in the name of Rader, Fishman and Grauer PLLC.

Respectfully submitted,

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(the 10th falling on a Saturday)

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